Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197

REPLY COMMENTS OF
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I. Introduction and Summary

The current proceeding is vital in determining whether the Lifeline program, on which millions of low-income Americans rely for communications services that connect them to government, employment, education, health, financial, and emergency services, will continue to support those who need it. Several of the proposals in the Commission's Notice of Proposed Rulemaking and Notice of Inquiry ("2017 Lifeline Item") would drastically cut Lifeline and reduce its impact in helping low-income families and individuals.[1] These draconian cuts received significant opposition in the record.

First, the record shows nearly unanimous opposition to the Commission's proposed ban on non-facilities based providers, otherwise known as resellers, in the Lifeline program. The Commission's reasoning ignores precedent. Facilities-based providers have already considered the business case to join Lifeline and have opted not to participate. Resellers, meanwhile, fill the void left by these carriers and provide a critical service to low-income consumers. Additionally, resellers actually bring business to facilities-based providers who might not want to join Lifeline, but can sell their excess capacity on networks to resellers instead. Although the Commission wishes to remove waste, fraud, and abuse in the Lifeline program through its reseller ban, the potentially slight decrease in fraud is not worth a blanket ban on a specific type of provider that the majority of Lifeline recipients use to access service.

Second, the record reflects broad skepticism to the Commission's proposed budget and benefit caps. There is no evidence to suggest that the current budget for Lifeline needs to be fixed. Lifeline support is currently much below its historical high level and the Commission

[1] *See Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Dec. 1, 2017) ("2017 Lifeline Item").

offers no valid basis for cutting it. Further, the Commission's proposal to prioritize the budget to favor rural areas over urban areas will add unnecessary complication to the process and would put the Commission in an inappropriate position of determining that some Americans deserve Lifeline support more than others.

Third, there is strong support in the record for maintaining the Lifeline Broadband Provider (LBP) designation, standalone broadband, and the rules that require providers to sell devices that are Wi-Fi and hotspot-enabled to Lifeline recipients (the "equipment rule"). Without an LBP designation, carriers are less likely to join the Lifeline program, which would lead to fewer options for consumers and less competition in the market. The Commission's proposal to remove the equipment rule undermines the tens of millions of dollars local governments have invested in closing the digital divide and the homework gap by building their own Wi-Fi networks at schools, libraries, hospitals, public parks, community centers, and other municipal buildings.

Fifth, the record demonstrates strong concerns about the privacy risks associated with the Commission's proposals. Implementation of the program changes would necessitate a tracking system that monitors a Lifeline recipient's geographic location, income history, and benefits accrual over the course of a lifetime is unprecedented in scale and scope—and deeply intrusive on recipients' privacy. Such a system would require strong data security protections, but nothing in the item or the record indicates that the Commission has contemplated any risk to privacy or measures to safeguard consumer data.

Sixth, the record shows that the Commission's proposals—namely banning resellers, imposing a strict budget cap, implementing lifetime benefit restrictions, and focusing Lifeline support to rural areas over urban areas—would disproportionately harm the most vulnerable communities in the U.S. Communities of color, low-income health care recipients and older Americans, and Puerto Ricans would all suffer if these proposals are enacted by removing consumer choice and severely restricting the efficacy of the Lifeline program.

Finally, there is strong opposition in the record to the Commission's attempts to turn Lifeline into an infrastructure program. Lifeline is currently, and has always been, an affordability program, designed to reduce the cost of service for low-income Americans who cannot afford the vital communications services they need to live in modern society. While there are several other Universal Service Fund programs that handle the problem of infrastructure and deployment, Lifeline is the only Commission program specifically tailored to help low-income Americans afford communications services. The Commission should continue to administer Lifeline as an affordability program, rather than shift focus toward the type of infrastructure investment already contemplated by other programs without the Universal Service Fund.

In these comments, OTI urges the Commission to abandon its proposal and instead continue to strengthen the Lifeline program, following in the footsteps of the 2016 Modernization Order. A stronger Lifeline program will help bridge the digital divide while a weakened program, undercut by the proposals in the 2017 Lifeline Item, would surely deepen that divide.

II. The Record Shows Widespread Opposition to the Proposed Program Changes

A. Reseller Ban

The record responding to the Commission's proposal to limit Lifeline support to facilities-based providers, known as the "reseller ban," speaks for itself. Everyone from AARP to Verizon opposes this proposal.[2]

Some arguments from initial comments bear emphasis. Banning resellers is unlikely to draw facilities-based carriers back into the program. Facilities-based carriers have already considered the business case Lifeline—they have long had the option to provide direct Lifeline services and gain the immediate benefit of the $9.75 per month subsidy. Instead, those carriers have largely rejected such an approach, with many opting to relinquish the ETC designation altogether and lease their network to a reseller instead.[3] The numbers bear out this history. The Benton Foundation found that Lifeline revenues are at best 1.1% of wireless revenues for the large carriers, representing a negligible revenue increase for those carriers and certainly not

[2] AARP Comments at 12-15; Verizon Comments at 8-10; Dan Lyons, "Lifeline's proposed reseller ban will likely harm low-income households," AEI Blog (March 5, 2018),http://www.aei.org/publication/lifelines-proposed-reseller-ban-will-likely-harm-low-income-households/?utm_source=newsletter&utm_medium=paramount&utm_campaign=cict; Free State Foundation Comments at 4-5; CTIA Comments at 10-20; INCOMPAS Comments at 4-7; ITIF Comments at 4-6; National Grange Comments at 2-3; Cities of Boston, Los Angeles, Portland, and Texas Coalition of Cities for Utility Issues Comments at 10-15 ("Cities of Boston, et al. Comments"), Multicultural Media, Telecom, and Internet Council and the "Lifeline Supporters" Comments at 5-7 ("MMTC Comments"); Mobile Future Comments at 4-8; Free Press Comments at 20-39; National Hispanic Media Coalition Comments at 16-19; City of New York Comments at 3-4; Low Income Consumer Advocates Comments at 5-6; Sprint Comments at 14-18; Communications Workers of America Comments at 4.

[3] INCOMPAS Comments at 7; Cities of Boston et al. Comments at 14-15; ITIF Comments at 5.

enough to incentivize providing Lifeline service in many areas.[4] Thus, eliminating resellers will simply remove Lifeline options for consumers with little countervailing benefit.

Banning resellers also removes sources of revenue for facilities-based providers that do not wish to offer direct Lifeline service.[5] Facilities-based providers have the ability to sell excess capacity on their networks to resellers who, in turn, provide direct Lifeline services. This approach benefits the facilities-based carrier in multiple ways: the resellers gain a revenue stream from leasing access to its network; and when the carrier amortizes its costs, it can amortize it over the entire customer base including customers of the reseller.[6] Without resellers, the revenue stream disappears and the facilities-based carrier will have a smaller customer base over which to amortize their costs.[7]

Banning resellers may have an incidental effect on waste, fraud, and abuse, but it is not worth the concomitant effects on access. As ITIF stated, "*[e]ven if* all fraudsters are resellers, not all resellers are fraudsters."[8] There are better ways to address waste, fraud, and abuse than banning an entire subset of providers from participating in the program. In fact, the Commission has already implemented parts of its 2016 Modernization Order.[9] Before the Commission attempts to further undercut the program, it should allow sufficient time for these mechanisms to take hold and evaluate their effectiveness. Further, the Lifeline program

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[4] Benton Foundation Comments at 4-5. And there would be further increases in provider costs associated with Lifeline administration.

[5] INCOMPAS Comments at 6.

[6] INCOMPAS Comments at 6.

[7] CTIA Comments at 14-15; INCOMPAS Comments at 6.

[8] ITIF Comments at 6 (emphasis added).

[9] The National Verifier is already being set for rollout in 2018. See Testimony of Vickie S. Robinson, Acting Chief Executive Officer and General Counsel Universal Service Administrative Company, Senate Committee on Homeland Security and Governmental Affairs (September 14, 2017), https://www.hsgac.senate.gov/hearings/fccs-lifeline-program-a-case-study-of-government-waste-and-mismanagement.

actually has high payment accuracy and lower fraud rates compared to other federal programs.[10]

The only filer to our knowledge that supports the Commission's proposal to hobble the program through a reseller ban is ATN International, Inc. ATN, a facilities-based Lifeline provider itself (and thus very likely to benefit from a ban on resellers), puts forth the same flawed logic as the Commission. In essence, ATN argues that without resellers, Lifeline support will go toward infrastructure investment, whereas resellers are unable to invest in infrastructure.[11] But this argument fails for the same reason that the Commission's argument does, based on the false premise that Lifeline is an infrastructure program. It is, historically, and by all current accounts an *affordability* program. Further, there is evidence that allowing resellers in the program increases investment in infrastructure.[12] Investment should never take precedence over ensuring that Lifeline services are affordable.

B. Budget and Benefit Caps

The record demonstrates overwhelming skepticism of the Commission's proposed budget cap and benefit limits. As Sprint notes, "There is no evidence to suggest that the budget approach adopted in the 2016 Lifeline Order is not working or that the $2.25 billion budget adopted in that order is unreasonable."[13] Cox Communications elaborates: "Lifeline support is considerably below its historical high level and the NPRM does not cite any concerning trend

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[10] ITIF Comments at 6; MMTC Comments at 10-11.
[11] ATN International, Inc. Comments at 2-3.
[12] CTIA Comments at 14-16; INCOMPAS Comments at 6-7.
[13] Comments of Sprint Inc., *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 at 4 (Feb. 21, 2018).

lines in support payments."[14] Indeed, Lifeline expenditures have fallen precipitously in recent years, from $2.1 billion in 2012 to $1.5 billion in 2015.[15] These trend lines do not justify the proposed austerity measures, and nothing in the record indicates that these trend lines will otherwise reverse. OTI agrees with Sprint that, at a minimum, the Commission should wait until the National Verifier is fully operational before making any conclusions about the need for budget cuts.[16] The National Verifier was designed to curtail unnecessary program costs, so it would be premature and unwise to make a sweeping determination about the program's expenditures before this system has taken effect.

OTI also shares Verizon's concerns that the budget cap "could require service providers to make semi-annual changes to Lifeline bills."[17] Such changes would create uncertainty for consumers and administrative costs for providers, both of which could drive consumers and providers out of the program. Collectively, these impacts could send the Lifeline market into a death spiral.

OTI also agrees with commenters' opposition to prioritizing the budget in favor of rural areas over urban communities. As Cox noted, any geography-based scheme "will add operational complexity as carriers have to administer different support levels and track customers' locations within the different support zones."[18] The Florida Public Service Commission expressed similar concerns, arguing that "equally qualifying households should

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[14] Comments of Cox Communications, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 at 10 (Feb. 21, 2018).
[15] Universal Service Monitoring Report, CC Docket No. 96-45 et al., at 26, Table 2.4 (WCB 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-343025A1.pdf.
[16] Comments of Sprint Inc., *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 at 4 (Feb. 21, 2018).
[17] Comments of Verizon, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 at 11 (Feb. 21, 2018).
[18] Comments of Cox Communications, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 (Feb. 21, 2018).

not be disadvantaged because they are not considered to be in a rural, non-rural, or Tribal area."[19] OTI strongly agrees. The Commission should not be engaging in capricious judgments about which types of Americans are more deserving of Universal Service Fund support. Such determinations as outlined in the NPRM would devalue military veterans, children, communities of color, and millions of other Americans who find themselves on the wrong side of an arbitrary geographic divide.

However, OTI disagrees with Florida's alternative proposal to tie Lifeline funds to SNAP's budget. Florida's suggestion is predicated on the belief that Lifeline expenditures have grown,[20] when in reality they have fallen significantly. This recommendation should not be given serious weight in light of the faulty premise.

C. Lifeline Broadband Provider Designation

The record shows ample support for retaining the Lifeline Broadband Provider (LBP) determination.[21] Without an LBP designation, carriers will be less likely to participate in the program, resulting in fewer choices for consumers and a less competitive market. Carriers are less likely to join a program with higher barriers to entry. The LBP determination was adopted in part because carriers had requested a more streamlined application process to reduce barriers to the program.[22] Broadband providers were reluctant to provide Lifeline services, even

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[19] Comments of Florida Public Service Commission, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 at 8 (Feb. 21, 2018).

[20] Comments of Florida Public Service Commission, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 at 8 (Feb. 21, 2018).

[21] E.g., RainbowPUSH Coalition Comments at 2; Low Income Advocates Comments at 18-20; National Hispanic Media Coalition Comments at 11-16; Free Press Comments at 12-20; City of New York Comments at 2-3; ITIF Comments at 3-4.

[22] Low Income Consumer Advocates Comments at 18.

if they wanted to,[23] because they would have to seek ETC designation from all states in their footprint. To address that problem, the Commission adopted a tailored solution, allowing broadband providers to seek LBP designation at the federal level. Removing the LBP designation will resurface that problem, and would effectively preclude those providers from joining the program. The streamlined process also benefits consumers. As more broadband providers join the program—as a result of lower barriers to entry—competition and quality of service increase, while prices decrease.[24]

D. Wi-Fi Equipment Rule

The record also shows strong support for maintaining the Wi-Fi equipment rule, the requirement that Lifeline providers include Wi-Fi and hotspot capability in devices they sell program recipients.[25] Local governments have invested tens of millions of dollars, including with USF support, in building their own Wi-Fi networks (through community institutions such as schools, libraries, hospitals, public parks, community centers, and other municipal buildings) to give their citizens more broadband access and to close the homework gap.[26] New York City notes that it has extensive public Wi-Fi installations in parks, libraries, and other public spaces, including LinkNYC, which offers fast, free, and secure Wi-Fi connections.[27] Without these rules, local governments would encounter more difficulties in closing the digital

[23] Free Press Comments at 15-16.
[24] Low Income Consumer Advocates Comments at 18. Free Press Comments at 17-18.
[25] Cities of Boston, et al. Comments at 18-20; AARP Comments at 19; City of New York Comments at 4-5; Low-Income Consumer Advocates Comments at 20.
[26] *Id.*
[27] City of New York Comments at 5.

divide through anchor institutions and publicly-available Wi-Fi.[28] Further, consumers would find it more difficult to access free Wi-Fi when available.

III. The Record Shows Significant Concerns About Data Retention and Privacy

OTI reiterates its concerns about data retention and consumer privacy. Nothing in the record indicates that the Commission has contemplated the enormous data collection that would be required to implement the item's proposed changes. A tracking system that monitors a Lifeline participant's geographic location, income history, and benefits accrual over the course of a lifetime is unprecedented in scale and scope—and inordinately intrusive on American privacy.

Many commenters underscored the administrative complexity that these changes would produce. Cox explained that "carriers would have to have systems to identify the priority areas and locate their customers within those areas, as well as provide a variable benefit level based on geography. These systems simply are not currently in place and changes to the billing system would present significant administrative burdens and also would increase opportunities for errors as well as potential incentives for abuse."[29] Sprint cautioned that the budget cap would likely cause consumers to apply for benefit transfers halfway through the fiscal year: "Benefit transfers increase the cost of program administration for USAC and ETCs, and increase

[28] Cities of Boston, et al. Comments at 18-19.
[29] Comments of Cox Communications, *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 (Feb. 21, 2018).

the potential for waste, fraud, and abuse. … Each benefit transfer requires a participant to complete an application and provide documentation of their eligibility for a Lifeline subsidy."[30]

These commenters suggest a system of substantial complexity that would become a large repository of sensitive information. Accordingly, the Commission must ensure strong data security practices. A sufficiently detailed security plan should include, at a minimum: (1) a system that regularly assesses security and anticipates attacks, (2) a method for detecting security failures and attacks in a timely fashion, and (3) a process for redressing security failures swiftly upon discovery.

The Commission should anticipate that this tracking system will be targeted by malicious attackers. As numerous recent breaches have illustrated, databases that host large amounts of sensitive information are prime targets for malicious attacks. Such attacks could expose Lifeline participants to serious harm, including financial fraud and identity theft. It is alarming that the Commission has not contemplated these concerns anywhere in the 2017 Lifeline Item. These privacy risks must not be dismissed, and they should not be introduced by this Commission simply to impose budget and benefits caps on vulnerable households, particularly when those caps are not needed.

IV. The Record Highlights Harms to Vulnerable Communities

The record demonstrates that the Commission's proposal to gut the Lifeline program would harm some of the country's most disenfranchised and vulnerable populations. The policies proposed in the 2017 Lifeline Item—such as banning resellers, implementing a lifetime

[30] Comments of Sprint Inc., *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287 (Feb. 21, 2018).

benefits cap, adopting a restrictive budget cap, and the move to restrict voice service support to only low-income households in rural areas—will directly and negatively affect communities of color, older Americans, low-income consumers with health needs, and Puerto Ricans. OTI agrees with the NAACP, the Black Women's Roundtable, and a wide variety of racial and social justice advocates who argued that these policies would harm poor and marginalized communities.[31]

A. Communities of Color

The Commission's proposals to eliminate resellers and institute lifetime benefit and budget caps would drastically harm communities of color that are disproportionately affected by the digital divide in the United States.[32] The proposed elimination of resellers,[33] which currently serve more than 70% of Lifeline recipients, would leave millions of people without service and disparately harm low-income minorities.[34] OTI agrees with the Black Women's Roundtable (BWR), who argues that many Black women (many of whom BWR notes are often the sole source of income for their households) depend on the Lifeline program to connect with

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[31] NAACP ex parte at 2; Low Income Consumer Advocates Comments; National Hispanic Media Coalition Comments; Black Women's Roundtable Comments; MMTC Comments; Free Press Comments; RainbowPUSH Coalition Comments; Letter from Reps. Anna G. Eshoo, Yvette D. Clarke, and 66 members of Congress to Chairman Pai, WC Docket No. 17-287 (March 21, 2018).
[32] S. Derek Turner, "Digital Denied: The Impact of Systemic Racial Discrimination on Home-Internet Adoption," *Free Press* (December 2016), https://www.freepress.net/sites/default/files/resources/digital_denied_free_press_report_december_2016.pdf.
[33] 2017 Lifeline Item, ¶ 63-73.
[34] MMTC Comments at 5-7, ("The Commission's proposal to limit participation in the Lifeline program to facilities-based providers is deeply flawed and will result in considerable harm to low-income minorities and other vulnerable segments of society."); NAACP Comments at 1-2 ("On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots-based civil rights organization, I strongly urge you to support a robust Lifeline program and I urge you to reject the proposals to decimate the program which are currently before you."); Low-Income Consumer Advocates Comments at 4-6.

their families, employers, healthcare and social service providers, children's schools, childcare providers and 911 emergency services.[35] If the Commission were to exclude resellers from participating in the Lifeline program, that exclusion would have a devastating impact on the lives of Black women, leaving them with no available options to access Lifeline services in their area.[36] The Commission argues that eliminating resellers and cutting Lifeline funding will catalyze facilities-based deployment and reduce consumer costs—but does not support this conclusion with any data.[37] As a large coalition of civil and racial justice rights advocates note, the highest concentrations of Lifeline recipients are found in urban areas, which already have robust facilities-based deployment, yet affordability remains a problem in these areas.[38]

Further, facilities-based providers have a history of resisting participation in Lifeline on the basis that customer eligibility verification requirements, document retention, and minimum service requirements add up to the high regulatory risk and cost of compliance for participating in the Lifeline program.[39] Due to a lack of incentives for facilities-based carriers to provide Lifeline service, resellers have entered the market to fill the void.[40]

The record also shows strong concern that the Commission's proposed budget cap would hurt communities of color by hamstringing a vital program that gives low-income Black

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[35] Black Women's Roundtable Comments at 3.
[36] *Id.*
[37] 2017 Lifeline Item ¶ 65.
[38] MMTC Comments at 6.
[39] MMTC Comments at 8.
[40] Black Women's Roundtable Comments at 4 ("As the Commission considers proposed reforms to the Lifeline program, the BWR urges the Commission to consider carefully the consequences that excluding non-facilities based providers from the Lifeline program will have on Black women and other consumers who rely on Lifeline services as essential to daily living… The Commission's facilities-based-only proposal would drastically diminish the effectiveness of the Lifeline program.").

families a chance to access opportunities that only exist online.[41] The Commission provides little support for the proposed budget cap, instead stating that the Universal Service Administrative Company (USAC) would forecast Lifeline disbursements during a specific period, and that if the projected disbursements are expected to exceed the cap, the disbursements would be proportionately reduced. OTI agrees with the BWR that this proposal would set up an "arbitrary budget mechanism" that would "inevitably result in depriving eligible consumers of Lifeline services even if funds are available for the program."[42] This budget cap would only deepen the divide for consumers who cannot afford access to telecommunications services, and would weaken a program that should be working to *improve* participation, particularly considering the fact that not all eligible Lifeline users actually participate in the program.[43] OTI also agrees with the RainbowPUSH Coalition, which argues that due to the much larger Hispanic and Black population dependence on smartphones compared to that of the white population, the proposed budget cap for phone service would "interfere with the everyday needs of low-income Americans."[44] The proposed budget cap would create disincentives and regulatory barriers for consumers and providers. A lifetime benefit cap would also harm communities of color by restricting access to a program that makes crucial communications services affordable.[45]

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[41] NAACP Ex Parte at 2 ("Rationing Lifeline hurts low-income Americans and hurts our nation. Rationing Lifeline is contrary to the intent of Universal Service and limits the ability of the program to help connect the poor to communications service. This proposal overlooks the purpose of the Lifeline program, which is to address the barrier to connectivity caused by poverty. Lifeline helps low-income Americans afford modern communications service.").
[42] Black Women's Roundtable Comments at 4.
[43] *Id.* at 5.
[44] RainbowPUSH Coalition Comments at 2, ("The self-enforcing budget cap on the Lifeline program, as proposed by the FCC, would create disincentives and add regulatory barriers to both consumers and providers.").
[45] NAACP Ex Parte at 2.

B. Older Americans

The Commission's proposals to shrink the Lifeline program by instituting a restrictive budget cap, lifetime benefit caps, a ban on resellers, and a new focus of support toward rural areas over urban areas would disproportionately harm older Americans.[46] As AARP argues, older Americans are likely to be overrepresented among low-income Americans who would benefit from efforts like Lifeline to close the digital divide.[47] According to the Kaiser Family Foundation, 45 percent of older adults have incomes below 200% of the federal poverty guideline.[48] Use of advanced technologies by households aged 65 and older is growing, but income levels have a strong impact on technology adoption by older households.[49]

The Commission's proposed lifetime benefit cap would in particular be harmful to older Americans and other low-income consumers with health needs. OTI agrees with the AARP, who argues that the proposal, predicated on the assumption that reliance on Lifeline is merely for families or individuals in transition, "completely ignores the plight of the elderly and disabled, whose reliance on Lifeline is not the result of transitory economic conditions."[50] The proposed benefit limits would undermine the effectiveness of the Lifeline program, and would place the

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[46] *See* Generally AARP Comments; AHIP Comments; UPMC Health Plans Comments; EmblemHealth Comments; and Medicaid Health Plans of America Comments.
[47] AARP Comments at 8.
[48] Juliette Cubanski, Giselle Casillas, and Anthony Damico, "Poverty Among Seniors: An Updated Analysis of National and State Level Poverty Rates Under the Official and Supplemental Poverty Measures," The Henry J. Kaiser Family Foundation (June 10, 2015), *available at* http://kff.org/medicare/issue-brief/poverty-among-seniors-an-updatedanalysis-of-national-and-state-level-poverty-rates-under-the-official-and-supplemental-poverty-measures/.
[49] AARP Comments at 8, Figure 2; Pew Research Center, "Technology use among seniors," Monica Anderson and Andrew Perrin (May 17, 2017), http://www.pewinternet.org/2017/05/17/technology-use-among-seniors/.
[50] AARP Comments at 26.

most vulnerable Americans—who find it more difficult than the able-bodied population to improve their income situation—at a high risk of losing support.[51]

C. Low-Income Health Care Recipients

Lifeline is similarly crucial for Medicaid recipients and Medicaid managed care plans' use of care management programs.[52] Low-income Americans use Lifeline-supported devices to make appointments for care, follow up with reminders to schedule preventive screenings and tests, discuss chronic care needs with nurses and case managers, and help refill needed prescriptions.[53] The Commission's various proposals aimed at gutting the Lifeline program would severely harm low-income consumers who rely on texting programs that aid in smoking cessation efforts, diabetes management, medication adherence, appointment scheduling and updates, and reproductive health.[54] Lifeline also plays a central role in optimizing care management of some of the sickest and most complex Medicaid program participants.[55] Medicaid enrollees with developmental, sensory, or physical disabilities heavily rely on Lifeline

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[51] *Id.*

[52] Medicaid Health Plans of America Comments at 2; AHIP Comments at 2; UPMC Comments at 2 ("More than 31,000 UPMC members enrolled in Medicaid or Special Needs Plans actively use a Lifeline-funded mobile phone. In addition to providing connectivity for social, occupational, emergency services, and medical purposes, these phones also allow UPMC to send important text-based communications, which encompass a variety of purposes from prompting members to re-verify Medicaid eligibility with Pennsylvania, to flu shot and scheduled pediatric screening reminders.").

[53] Medicaid Health Plans of America Comments at 2.

[54] AHIP Comments at 2.

[55] *Id.* ("For enrollees who receive long term services and supports but do not have landline telephones, Lifeline provides a means for electronic visit verification, which ensures that scheduled home services have taken place. And for people who are homeless or living in shelters, Lifeline is a two-way channel for care managers to connect and keep in contact with them on their health conditions and medications, and for the enrollees to connect quickly with care managers in times of crisis.").

to communicate with their care managers as well.[56] The proposed changes to Lifeline that would hinder and in many cases eliminate options for providers, restrict the budget of the program, and limit participants in how long they can use the program would likely devastate Americans struggling not only with their income but also their health.

The Commission's proposed move to eliminate resellers from the program would leave Medicaid recipients with far less choice, would increase cost, and would take away a vital resource for low-income Americans with health concerns.[57] OTI agrees with AHIP, who argues that the exclusion of resellers from Lifeline would likely severely limit competition and access to preventive and other services, which would in turn likely increase Medicaid program costs.[58] EmblemHealth similarly argues that by limiting the number of providers, the Commission would increase contracting costs, which could lead to fewer health plans using text-based health programs aimed at low-income Americans.[59]

The Commission's proposal to focus support on rural areas would negatively affect Medicaid recipients. The Commission would need to monitor Lifeline participants' locations to

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[56] *Id.* ("Examples include: • Allowing an enrollee to alert a care manager that a personal attendant has missed a morning appointment to help the enrollee get out of bed, or that transportation to a doctor appointment is delayed; • Enabling an enrollee who is deaf to communicate with a provider through remote video interpretation; • Providing navigation assistance for enrollees who are blind or visually impaired; and • Providing functional and behavioral supports for people with developmental disabilities who need visual prompting tools to transition between activities, understand upcoming events, make choices, and focus on tasks.").

[57] AHIP Comments at 2-3 ("The proposal to limit the Lifeline program to facilities-based network providers (83 FR at 2106, ¶ 16) raises concerns regarding the competitive impact of excluding re-sellers and could limit access to important health care programs and services for vulnerable individuals and families, including low-income seniors, those with disabilities and chronic illnesses, pregnant women, and children."); UPMC Comments; and EmblemHealth Comments.

[58] AHIP Comments at 2-3 ("Additionally, state Medicaid programs and Medicaid health plans work together to provide care while making the best use of state and federal taxpayer dollars… At a time when Congress is looking for ways to reduce federal expenditures on public programs, decreasing the effectiveness and viability of the Lifeline program seems counterintuitive.").

[59] EmblemHealth Comments at 2.

determine geographic eligibility, which could be especially burdensome on Medicaid beneficiaries who often experience housing instability and may change addresses frequently. This proposed change in focus could be highly disruptive to an individual's continuity of care and ability to access health services.[60]

Finally, the Commission's proposed "self-enforcing" budget cap would likely result in massive numbers of eligible consumers losing Lifeline support, which could severely harm low-income Americans with health needs who suddenly lose service.[61] Most importantly, the Commission's proposal is predicated on a false premise that completely ignores how demand for Lifeline functions. Demand for Lifeline services is inversely related to income levels, and it is reasonable to expect a growing dependence on the program in times when the economy is faltering.[62] Given the uncertain state of the economy and declining income mobility, this is a time to be strengthening and expanding the Lifeline program, not hobbling it with draconian reforms.

D. Puerto Ricans

OTI agrees with the National Hispanic Media Coalition (NHMC) that the 2017 Lifeline Item would be particularly damaging to Puerto Ricans, who are still working to recover from the devastation of Hurricane Maria. This impact is especially problematic given that access to emergency services is one of the primary reasons that the Commission created the Lifeline

[60] Medicaid Health Plans of America Comments at 2 ("Some of the poorest Medicaid beneficiaries do not have access to any type of communication aside from the Lifeline program. If plans cannot connect with members they cannot manage their health.").
[61] AHIP Comments at 3, AARP Comments at 22-23.
[62] AARP Comments at 22.

program during the Reagan Administration.[63] Even more telling is how the Commission does not mention Puerto Rican recovery efforts in the entirety of the 2017 Lifeline Item.[64] Even more concerning, the Commission has, just today, ended its daily reporting on the status of communications services and systems in Puerto Rico, ending data collection on the availability of such services on the island.[65] Puerto Ricans will be devoting resources to rebuilding their lives and communities for years, and in that time Lifeline-supported service could bring vital assistance for accessing government and emergency services, health information, employment information, and communicating with loved ones. OTI agrees with NHMC that the Commission should "focus on ensuring that individuals eligible for Lifeline are connected to the program and cease efforts to narrow the eligible population."[66]

V. The Record Opposes Turning Lifeline Into an Infrastructure Program

Lifeline is an affordability program. The purpose of Lifeline is to empower low-income consumers, who could otherwise not afford it, to purchase essential communications services. On the Commission's website landing page for Lifeline, it states, "Lifeline is the FCC's program

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[63] National Hispanic Media Coalition Comments at 28 ("Lifeline is the only way for many individuals to access emergency services and is indeed one of the primary reasons that the FCC created the Lifeline program over three decades ago. In Puerto Rico, 60 percent of the eligible Lifeline population participates in the program – by far the highest rate of participation per eligible household in any state or territory.").
[64] *Id.*
[65] FCC'S Public Safety & Homeland Security Bureau Announces Deactivation of the Disaster Information Reporting System For Areas Impacted By Hurricane Maria, Press Release (March 23, 2018), https://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0323/DA-18-289A1.pdf.
[66] *Id.* at 29.

to help make communications services more *affordable* for low-income consumers."[67] This description is supported by Congressional mandate as well.[68]

The Commission—through its highly unpopular proposal to eliminate non-facilities based providers from the Lifeline program, its proposal to focus support to rural areas over urban areas, and a line seeking comment on "changes the Commission could make to target consumers who have not yet adopted broadband"[69]—appears to be shifting the focus of Lifeline toward building infrastructure rather than assisting low-income Americans with actually buying service. There is widespread opposition to this direction being taken by the Commission and a wide-ranging agreement from commenters ranging from Free Press to Sprint that Lifeline is an affordability program and should remain one.[70] USTelecom, in responding to whether the Commission should focus Lifeline support in a manner that encourages investment in broadband networks, argues, "The Commission should not utilize the Lifeline program to achieve a goal for which it is not designed... Since its inception, the Lifeline program has been an affordability program, and not an accessibility program"[71] OTI firmly agrees. Sprint and INCOMPAS similarly argue that the Commission should not condition payment of Lifeline support on capital investments by the service provider, adding that modest per person subsidies are not a basis on which to make capital-intensive network deployment decisions.[72]

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[67] Lifeline Support for Affordable Communications, Federal Communications Commission, https://www.fcc.gov/consumers/guides/lifeline-support-affordable-communications (emphasis added).
[68] 47 USC § 254(b)(1).
[69] 2017 Lifeline Item ¶ 117.
[70] Free Press Comments at 62-67; National Hispanic Media Coalition Comments at 6-11; Cities of Boston, et al. Comments at 3-7; MMTC Comments at 7-9; INCOMPAS Comments at 15-16; Free State Foundation Comments at 4; USTelecom Comments at 1-3; Sprint Comments at 20-23; Low-Income Consumer Advocates at 4-5; National Lifeline Association Comments at 1-7; NASUCA Comments at 5-8; CTIA Comments at 17-18.
[71] USTelecom Comments at 1-2.
[72] Sprint Comments at 20; INCOMPAS Comments at 15.

Further, the purpose of Lifeline is to tackle the pervasive problem that even in areas with significant infrastructure already deployed, low-income Americans still cannot afford the communications services they need to compete in modern society.[73] Meanwhile, there are other Universal Service Fund programs that address the deployment of new networks, such as the Connect America Fund and the Mobility Fund; Lifeline is unique in that it is directed to help low-income consumers actually afford the networks that are already built.[74] Additionally, OTI agrees with Low Income Consumer Advocates who argue that adjusting the focus of Lifeline support from affordability to networks would ignore both the Communications Act and the Telecommunications Act, which both direct the Commission to address the need from low-income Americans to afford communications services.[75]

VI. Conclusion

The Commission's proposal to gut the Lifeline program has clearly generated widespread opposition from the public interest community, racial and social justice advocates, the telecommunications and wireless industry, and progressive and conservative analysts alike. OTI urges the Commission to heed the recommendations from this diverse array of commenters and abandon the 2017 Lifeline Item.

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[73] Cities of Boston, et al. Comments at 5 ("Even where service is available, it may not be affordable and thus not accessible to millions of low-income Americans.").
[74] *Id.*; INCOMPAS Comments at 16.
[75] Low-Income Consumer Advocates Comments at 5.